

IN RE: PETITION FOR VARIANCE
NW/S Autumn View Way, 125' SW
of Graves Wood Court
(2418 Autumn View Way)
9th Election District
6th Councilmanic District

Chapel Homes, Inc.
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-477-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2418 Autumn View Way, located in the vicinity of Satyr Hill Road in Parkville. The Petition was filed by the owners of the property, Chapel Homes, Inc., by Tom Faust, President, through their attorney, John B. Gontrum, Esquire. The Petitioners seek relief from Sections 1B01.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.b.3 of the design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet for a proposed dwelling. The Petitioners also requested relief from Sections 1B01.2 and V.B.6.b as to window to window and window to property line setback requirements. However, those requests were withdrawn as there will be no windows on the sides of the proposed dwelling, and the Petition was amended accordingly. Thus, the hearing proceeded on the relief sought from building face to building face setback requirements in accordance with the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were representatives of Chapel Homes, Inc., property owners, and John B. Gontrum, Esquire, attorney for the Petitioners. There were no Protestants.

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

Testimony and evidence offered revealed that the subject property consists of 0.25 acres, more or less, zoned D.R. 1 and is presently unimproved. The property is also known as Lot 19 of Satyr Hill Estates which received development plan approval under the old zoning regulations. The Petitioners seek to develop the site with a single family dwelling in accordance with Petitioner's Exhibit 1. In order to accommodate the topography of Lot 19 and construct a home consistent with others in this development, the requested variances are necessary. Testimony indicated that the adjoining property owners on both sides of the subject site were consulted about the proposed development and neither had any objections to the relief requested.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

OFFICE OF THE DEPUTY ZONING COMMISSIONER
JAN 10 1995
32/95
32/95

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Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

ORDER RECEIVED FOR FILING
Date 8/2/73
By [Signature]

12-11-80

area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

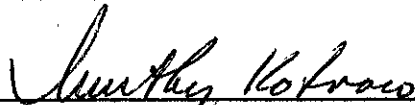
Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of August, 1995 that the Petition for Variance seeking relief from Sections 1B01.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.b.3 of the design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 8/2/95
By [Signature]

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 2, 1995

John B. Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE
NW/S Autumn View Way, 125' SW of Graves Wood Court
(2418 Autumn View Way)
9th Election District - 6th Councilmanic District
Chapel Homes, Inc. - Petitioners
Case No. 95-477-A

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Tom Faust, President
Chapel Homes, Inc., 2401 York Road, Timonium, Md. 21093

People's Counsel

✓ File

MICROFILMED



468



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2418 Autumn View Way

which is presently zoned D.R.1

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) From Sec. 1B01.2c and Sec. v.b.3. of design manual for a side building face to side building face of 25' and 27.28' in lieu of required 30'. From Sec. 1B01.2 and Sec. v.b.6.b to allow a window 7.72' from property line in lieu of required 15'. From Sec. 1B01.2c and Sec. v.b.6.c. of design manual to allow a window to window distance of 25' in lieu of required 40'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Construction of house in conformity with size and quality of similarly structures creates a practical difficulty in compliance with old zoning requirements.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

John B. Contrum, Esquire

(Type or Print Name)

ROMADKA, CONTRUM & McLAUGHLIN, P.A.

Signature

814 Eastern Blvd.

686-8274

Address

Phone No

Essex, Maryland

21221

City

State

Zipcode

Legal Owner(s):

Chapel Homes, Inc.

(Type or Print Name)

By:

Signature Tom Faust, President

(Type or Print Name)

Signature

2401 York Road

560-1182

Address

Phone No

Timonium, MD 21093

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

DROP OFF
No REVIEW
6/19/95 ucr



468



Petition for Variance

95-477-A

to the Zoning Commissioner of Baltimore County

for the property located at 2418 Autumn View Way

which is presently zoned D.R.1

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) From Sec. 1B01.2c and Sec. v.b.3. of design manual for a side building face to side building face of 25' and 27.28' in lieu of required 30'. From Sec. 1B01.2 and Sec. v.b.6.b to allow a window 7.72' from property line in lieu of required 15'. From Sec. 1B01.2c and Sec. v.b.6.c. of design manual to allow a window to window distance of 25' in lieu of required 40'. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

with drawn by Petitioner TMC

Construction of house in conformity with size and quality of similarly structures creates a practical difficulty in compliance with old zoning requirements.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

John B. Contrum, Esquire

(Type or Print Name)

ROMADKA, CONTRUM & McLAUGHLIN, P.A.

Signature

814 Eastern Blvd.

686-8274

Address

Phone No

Essex, Maryland

21221

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Chapel Homes, Inc.

(Type or Print Name)

By:

Signature Tom Faust, President

(Type or Print Name)

Signature

2401 York Road

560-1182

Address

Phone No.

Timonium, MD 21093

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL OTHER

REVIEWED BY: DATE

ORDER RECEIVED FOR FILING
Date 6/19/95
By

DROP - OFF
NO REVIEW

6/19/95 ucr



MICROFILMED

468

95-477-A

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR., & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Zoning Description

Beginning at a point on the west side of Autumn View Road which is 50 feet wide at a distance of 123 feet± south of the center line of the nearest improved intersecting street Graveswood Court which is 50 feet wide. Being Lot #19 in the subdivision of Satyr Hill Estates as recorded in Baltimore County Plat Book #62, Folio #102, containing 10,890 square feet (0.25 Acres±). Also known as #2418 Autumn View Way and located in the 9th Election District.

**THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED IN
CONVEYANCES OR AGREEMENTS.**

MICROFILMED

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by Authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:
65-477-A (Item 468)
2418 Autumn View Way
NW/S Autumn View Way
1251 SW of Graves
Wood Court
9th Election District
6th Councilmanic
Legal Owner(s):
Chesapeake Building
HEADING HILL, MD 21204
101 W. 27th St. 1111111111

and in Room 118, Old Courthouse, Towson, Maryland 21204 as follows:
Variance to design manual for a side building face to side building face of 25 feet and 27-28 feet in lieu of the required 30 feet to allow a window 7-72 feet from property line in lieu of the required 15 feet; and of the design manual to allow a window to window distance of 25 feet in lieu of the required 40 feet.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped accessible for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

7/030 July 6.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published

in Towson, Baltimore County, Md., once in each of 1 successive

weeks, the first publication appearing on July 6, 1995.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

Publisher



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date 6/19/95

#010 - VARIANCE ----- \$50.00
#080 - SIGN POSTING ----- 35.00
TOTAL ----- \$85.00

Legal Owner - Chapel Homes, Inc.
2418 Autumn View Way
District: 9c6
10,890 square feet
zoning: D.R.-1
attorney: John B. Gontrum

receipt

95-477-A

Account: R-001-6150

Number 468 (WCR)

DROP-OFF ----- NO REVIEW

MICROFILMED

Check from Romadka, Gontrum

& McLaughlin

01ADINDIUSMICR

\$85.00

BA COLL:39AMD3-20-95

Please Make Checks Payable To: Baltimore County

Cash

LAW OFFICES/ROMADKA, GON ^Y , JIM & McLAUGHLIN		PAY TO	AMOUNT
DATE	TRUST NAME	DESC. ... TION	

468

6/15/95	Chapel Homes - 95.3017	\$85.00	
	Filing Fee - \$50.00		
	Sign - \$35.00		
	For Petition for Variance for 2418 Autumn View Way		

Payable to: Baltimore County

CHECK DATE	CHECK NO.	CHECK AMOUNT

TO: PUTUXENT PUBLISHING COMPANY
July 6, 1995 Issue - Jeffersonian

Please forward billing to:

John B. Gontrum, Esq.
814 Eastern Boulevard
Essex, MD 21221
686-8274

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-477-A (Item 468)
2418 Autumn View Way
NW/S Autumn View Way, 125' SW of Graves Wood Court
9th Election District - 6th Councilmanic
Legal Owner(s): Chapel Homes, Inc.
HEARING: MONDAY, JULY 24, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Variance to design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet; to allow a window 7.72 feet from property line in lieu of the required 15 feet; and of the design manual to allow a window to window distance of 25 feet in lieu of the required 40 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 27, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-477-A (Item 468)

2418 Autumn View Way

NW/S Autumn View Way, 125' SW of Graves Wood Court

9th Election District - 6th Councilmanic

Legal Owner(s): Chapel Homes, Inc.

HEARING: MONDAY, JULY 24, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Variance to design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet; to allow a window 7.72 feet from property line in lieu of the required 15 feet; and of the design manual to allow a window to window distance of 25 feet in lieu of the required 40 feet.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon

Director

Department of Permits and Development Management

cc: Chapel Homes, Inc.
John B. Gontrum, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

MICROFILMED



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 17, 1995

John B. Gontrum, Esquire
814 Eastern Blvd.
Essex, Maryland 21221

RE: Item No.: 468
Case No.: 95-477-A
Petitioner: Chapel Homes, Inc.

Dear Mr. Gontrum:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 19, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, ZADM

DATE: July 5, 1995

FROM: Pat Keller, Director, OPZ

SUBJECT: 2418 Autumn View Way

INFORMATION:

Item Number: 468

Petitioner: Chapel Homes, Inc.

Property Size: _____

Zoning: DR-1

Requested Action: Variance

Hearing Date: _____ / _____ / _____

SUMMARY OF RECOMMENDATIONS:

The applicant seeks variances from several setback requirements.

While staff does not oppose the applicant's request, it is clear that the petitioner will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject variances.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kline

PK/JL

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: July 11, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Development Plans Review

RE: Zoning Advisory Committee Meeting
for July 10, 1995
Items 468, 469, 472, 473, 474, 475, 476 and 477

The Development Plans Review Division has reviewed
the subject zoning item and we have no comments.

RWB:sw

MAILED 7/11/95

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM

DATE: 7/7/95

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: July 3, 1995

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

468
469
470
472
473

LS:sp

LETTY2/DEPRM/TXTSBP

RECORDED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

RECEIVED

JUL 5 1995

ZADM

(410) 887-4500

DATE: 07/03/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JUL. 03, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS 468, 469, 473, 474, 475,
476 AND 477

REVIEWER: LT. ROBERT P. SAUERWALD.
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

6-23-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 468 (WCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 5, 1995

John B. Gontrum, Esquire
Romadka, Gontrum, & McLaughlin, P.A.
814 Eastern Boulevard
Essex, MD 21221

RE: Preliminary Petition Review (Item #468)
Legal Owner: Chapel Homes, Inc.
2418 Autumn View Way
9th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. C. Merrey", written over a circular stamp.

Joseph C. Merrey
Planner I

JCM:scj

Enclosure (receipt)

c: Zoning Commissioner

RECEIVED



RE: PETITION FOR VARIANCE	*	BEFORE THE
2418 Autumn View Way, NW/S Autumn View Wy,	*	ZONING COMMISSIONER
125' SW of Graves Wood Court, 9th	*	OF BALTIMORE COUNTY
Election District, 6th Councilmanic	*	CASE NO. 95-477-A
Chapel Homes, Inc.	*	
Petitioner	*	

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

MICROFILMED

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

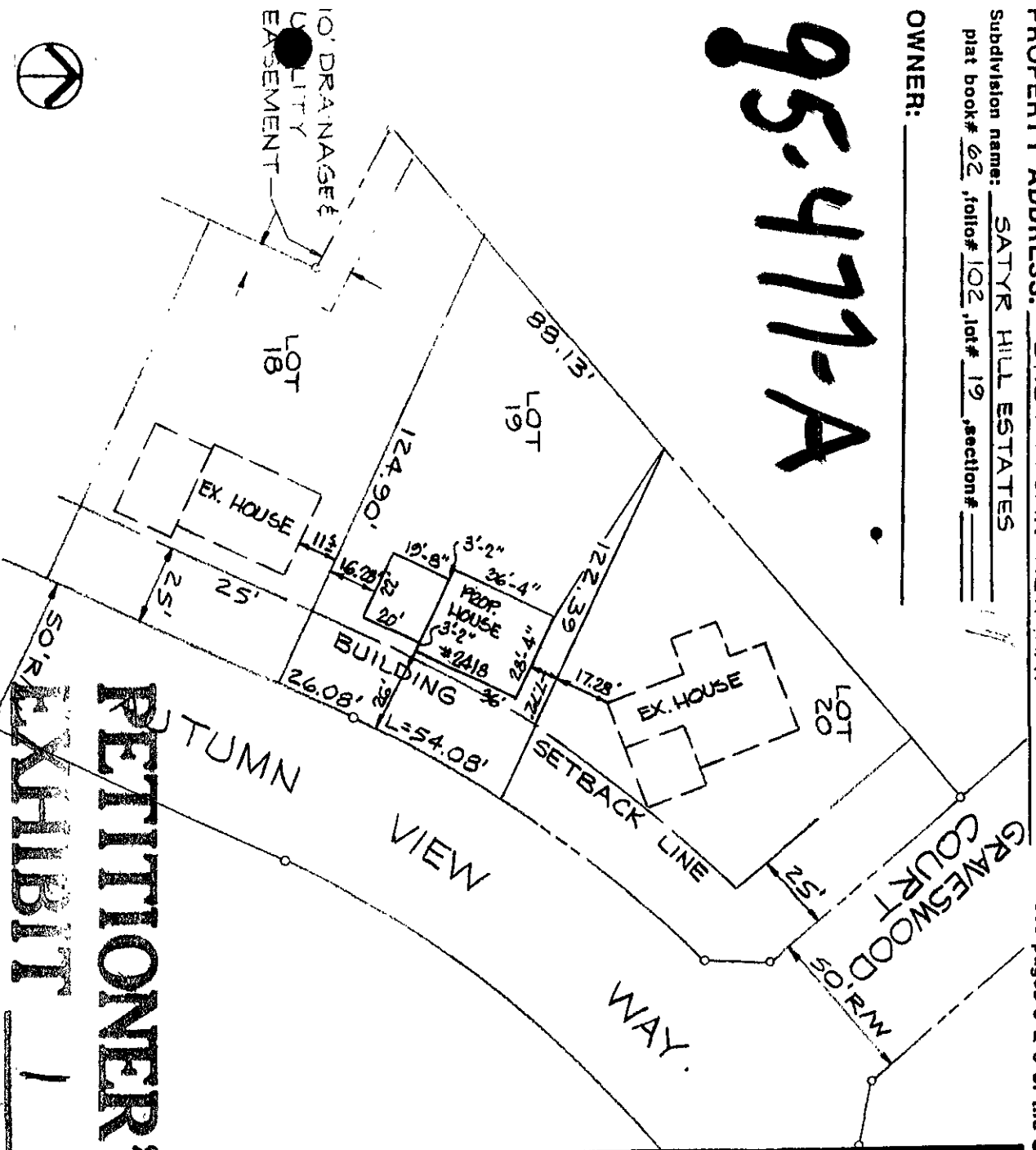
PROPERTY ADDRESS: #2418 AUTUMN VIEW WAY

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: SATYR HILL ESTATES
 plat book# 62, folio# 102, lot# 19, section#

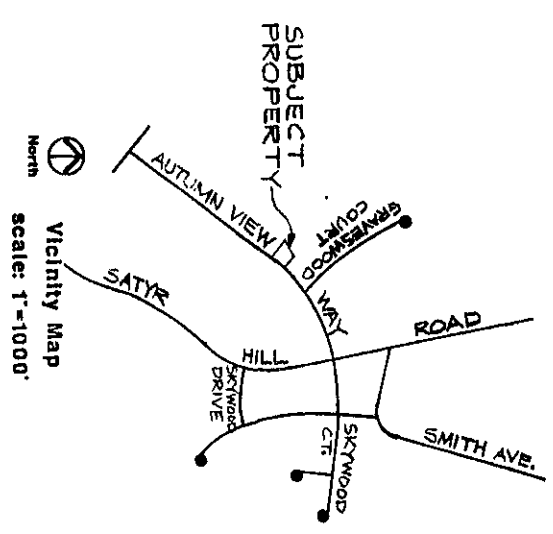
OWNER: _____

95-4771-A



PETITIONER'S
 EXHIBIT 1

North
 date: 4/17/95
 prepared by: M.A.N.
 Scale of Drawing: 1" = 50'



LOCATION INFORMATION

Councilmanic District: 6

Election District: 9

1"-200' scale map#: NE 11 D

Zoning: DR 1

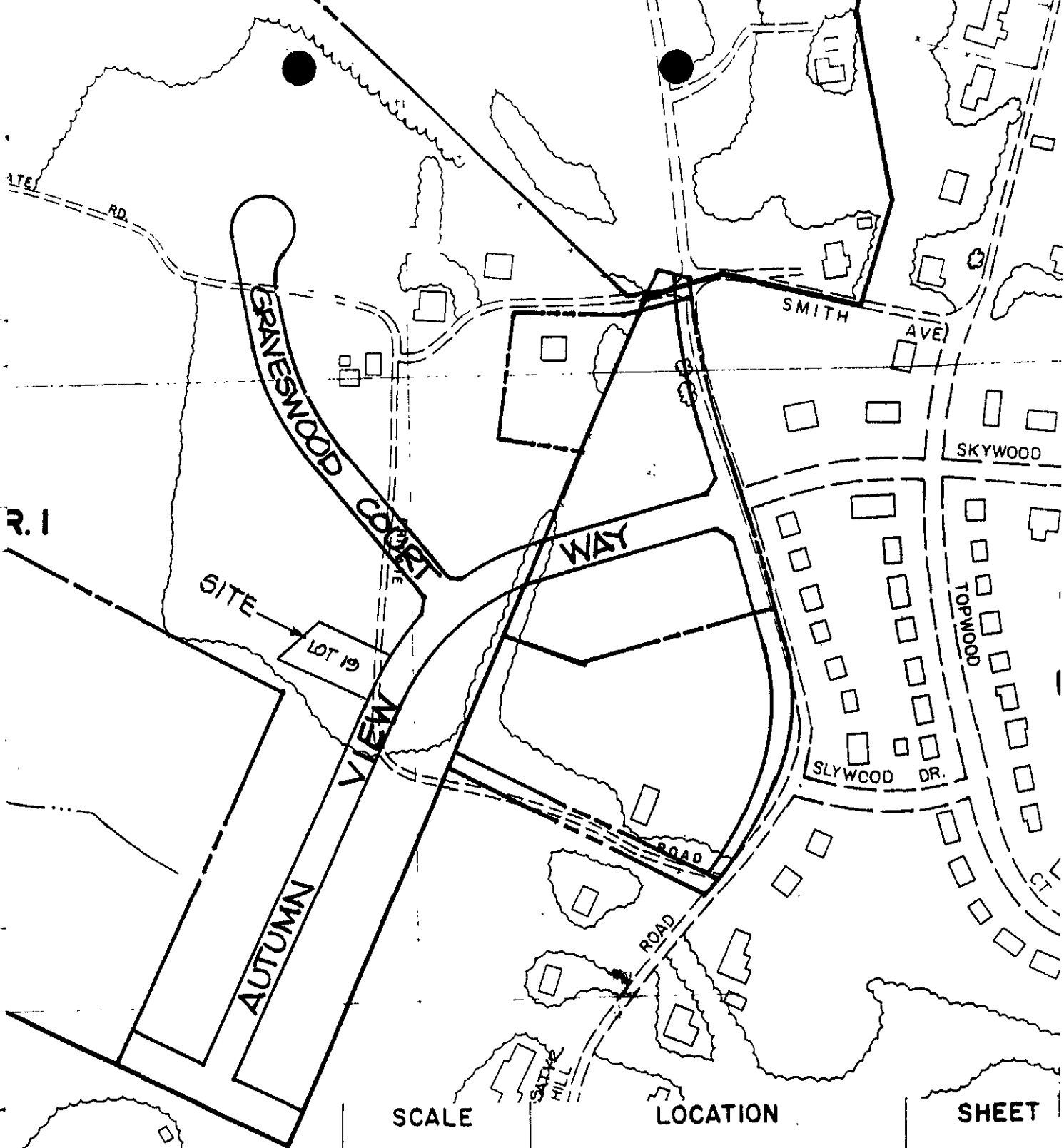
Lot size: 0.25Ac.± 10890
 acreage square feet

public private
 SEWER: ☒ ☐
 WATER: ☒ ☐
 Chesapeake Bay Critical Area: ☐ ☒
 Prior Zoning Hearings: ☐ ☒

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

468



SCALE

1" = 200' ±

LOCATION

SHEET

LOCH RAVEN
RESERVOIR AREA

N.E.

11 - D

DATE
OF
PHOTOGRAPHY
JANUARY
1986

D.R. 2

MICROFILMED

95-477-A

468

GRANESM000

WAY

SITE

SCALE

LOCATION

SHEET

1" = 200' =

95-477-A

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCKE RAVEN
RESERVOIR AREA

N.E
11-D

468

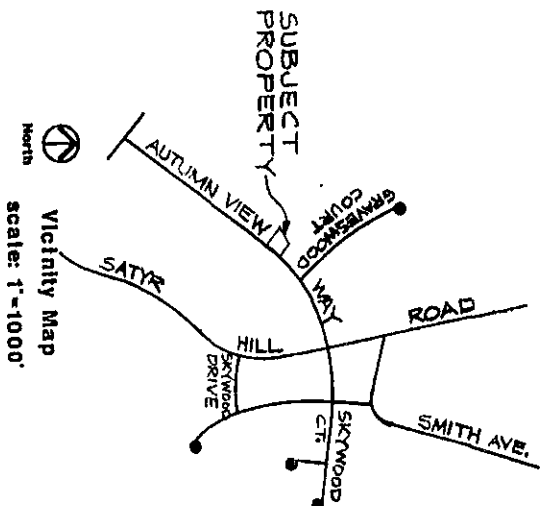
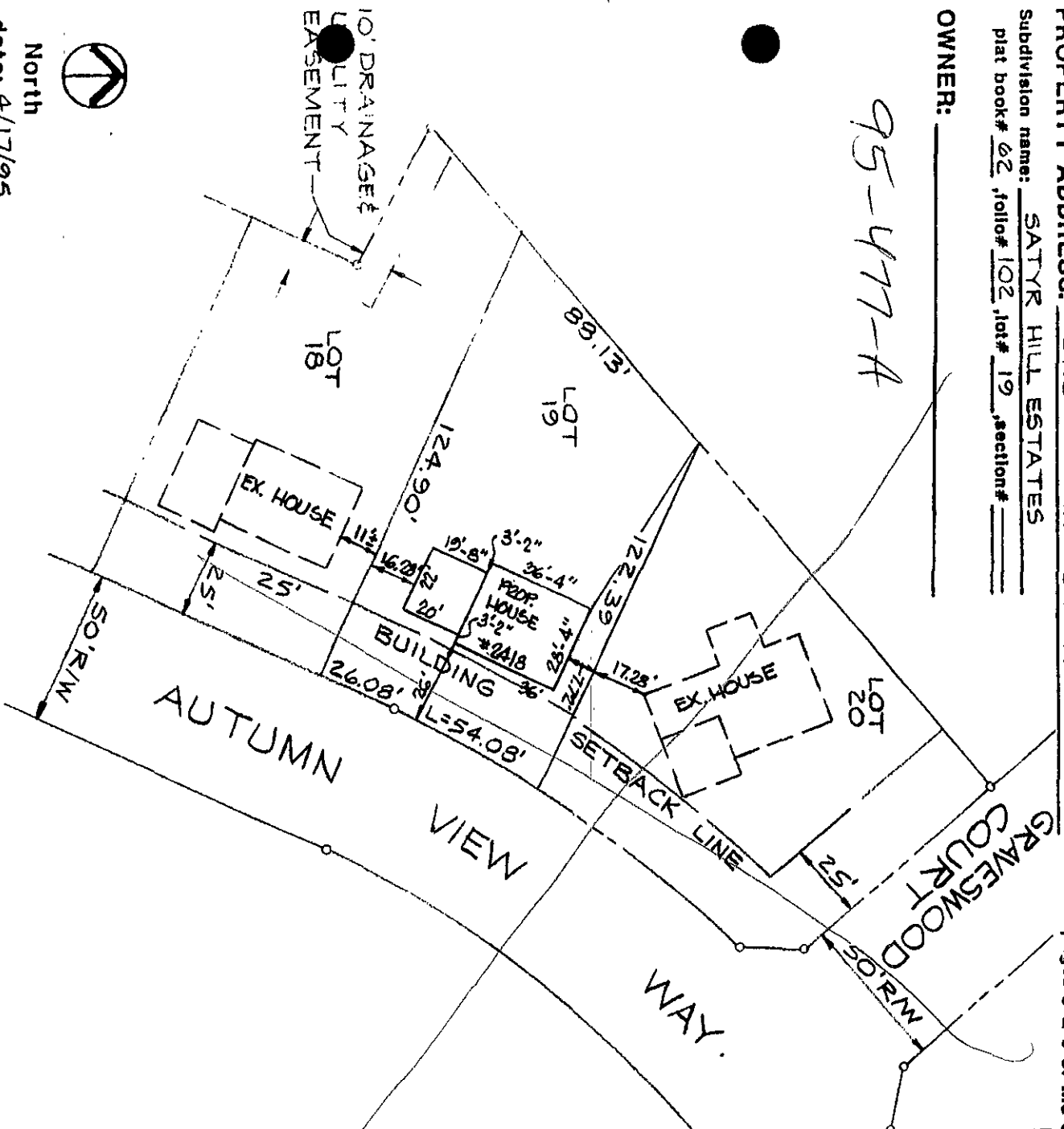
ring

see pages 5 & 6 of the CHECKLIST for additional required information

TH AVE.

SMITH

95-477-A



LOCATION INFORMATION

Councilmanic District: 6
Election District: 9

1"-200' scale map#: NE 11 D

Zoning: DR!

Lot size: 0.25Ac.± 10,890
acres square feet

public private

SEWER: ☒ ☐

WATER: ☒ ☐

Local Area: ☐ ☒

Prior Zoning Hearings:

Zoning Office USE ONLY

reviewed by:	ITEM #:	CASE#:
--------------	---------	--------

North
date: 4/17/95
prepared by: M.A.N.

Scale of Drawing: 1" = 50'





477

780

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-477-A

District 7th

Date of Posting 7/8/95

Posted for: Dononco

Petitioner: Chapel Homes, Inc.

Location of property: 2818 Autumn Way, N.Y.S.

Location of Signs: Facing roadway on property being zoned

Remarks: _____

Posted by M. Miller
Signature

Date of return: 7/14/95

Number of Signs: 1



IN RE: PETITION FOR VARIANCE
NW/8 Autumn View Way, 125' SW
of Graves Wood Court
(2418 Autumn View Way)
9th Election District
6th Councilmanic District
Chapel Homes, Inc.
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-477-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2418 Autumn View Way, located in the vicinity of Satyr Hill Road in Parkville. The Petition was filed by the owners of the property, Chapel Homes, Inc., by Tom Faust, President, through their attorney, John B. Gontrum, Esquire. The Petitioners seek relief from Sections 1801.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.b.3 of the design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet for a proposed dwelling. The Petitioners also requested relief from Sections 1801.2 and V.B.6.b as to window to window and window to property line setback requirements. However, those requests were withdrawn as there will be no windows on the sides of the proposed dwelling, and the Petition was amended accordingly. Thus, the hearing proceeded on the relief sought from building face to building face setback requirements in accordance with the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were representatives of Chapel Homes, Inc., property owners, and John B. Gontrum, Esquire, attorney for the Petitioners. There were no Protestants.

Testimony and evidence offered revealed that the subject property consists of 0.25 acres, more or less, zoned D.R. 1 and is presently unimproved. The property is also known as Lot 19 of Satyr Hill Estates which received development plan approval under the old zoning regulations. The Petitioners seek to develop the site with a single family dwelling in accordance with Petitioner's Exhibit 1. In order to accommodate the topography of Lot 19 and construct a home consistent with others in this development, the requested variances are necessary. Testimony indicated that the adjoining property owners on both sides of the subject site were consulted about the proposed development and neither had any objections to the relief requested.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

- 2 -

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

- 3 -

area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

- 4 -

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of August, 1995 that the Petition for Variance seeking relief from Sections 1801.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.b.3 of the design manual for a side building face to side building face of 25 feet and 27.28 feet in lieu of the required 30 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 2, 1995

John B. Gontrum, Esquire
Romaika, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE
NW/8 Autumn View Way, 125' SW of Graves Wood Court
(2418 Autumn View Way)
9th Election District - 6th Councilmanic District
Chapel Homes, Inc. - Petitioners
Case No. 95-477-A

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Tom Faust, President
Chapel Homes, Inc., 2401 York Road, Timonium, Md. 21093

People's Counsel

☒ file

ORDER RECEIVED FOR FILING
Date 8/2/95
By [Signature]

- 5 -



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2418 Autumn View Way
which is presently zoned D.R.1

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) From Sec. 1801.2c and Sec. v.b.3. of design manual for a side building face to side building face of 25' and 27.28' in lieu of required 30'. From Sec. 1801.2 and Sec. v.b.6.b to allow a window 7.72' from property line in lieu of required 15'. From Sec. 1801.2c and Sec. v.b.6.c. of design manual to allow a window to window distance of 25' in lieu of required 40'. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Construction of house in conformity with size and quality of similarly structures creates a practical difficulty in compliance with old zoning requirements.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor:		Legal Owner(s):	
(Type or Print Name)		Chapel Homes, Inc.	
Signature		By: [Signature]	
Address		Signature Tom Faust, President	
City State Zipcode		City State Zipcode	
2401 York Road 560-1182		Timonium, MD 21093	
Address		City State Zipcode	
814 Eastern Blvd. 686-8274		Essex, Maryland 21221	
City State Zipcode		City State Zipcode	
Essex, Maryland 21221		Essex, Maryland 21221	
City State Zipcode		City State Zipcode	
ESTIMATED LENGTH OF HEARING		ESTIMATED LENGTH OF HEARING	
unavailable for Hearing		unavailable for Hearing	
the following dates		the following dates	
ALL OTHER		ALL OTHER	
REVIEWED BY: DATE		REVIEWED BY: DATE	

DROP OFF
No REVIEW
6/19/95 ucr



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2418 Autumn View Way
which is presently zoned D.R.1

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) From Sec. 1801.2c and Sec. v.b.3. of design manual for a side building face to side building face of 25' and 27.28' in lieu of required 30'. From Sec. 1801.2 and Sec. v.b.6.b to allow a window 7.72' from property line in lieu of required 15'. From Sec. 1801.2c and Sec. v.b.6.c. of design manual to allow a window to window distance of 25' in lieu of required 40'. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

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Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor:		Legal Owner(s):	
(Type or Print Name)		Chapel Homes, Inc.	
Signature		By: [Signature]	
Address		Signature Tom Faust, President	
City State Zipcode		City State Zipcode	
2401 York Road 560-1182		Timonium, MD 21093	
Address		City State Zipcode	
814 Eastern Blvd. 686-8274		Essex, Maryland 21221	
City State Zipcode		City State Zipcode	
Essex, Maryland 21221		Essex, Maryland 21221	
City State Zipcode		City State Zipcode	
ESTIMATED LENGTH OF HEARING		ESTIMATED LENGTH OF HEARING	
unavailable for Hearing		unavailable for Hearing	
the following dates		the following dates	
ALL OTHER		ALL OTHER	
REVIEWED BY: DATE		REVIEWED BY: DATE	

DROP OFF
No REVIEW
6/19/95 ucr

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM
FROM: DEPRM
Development Coordination
SUBJECT: Zoning Advisory Committee
Agenda: July 3, 1995

DATE: 7/7/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 468
469
470
472
473

LS:sp

LETTY2/DEPRM/TXTSBP

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21286-5500

RECEIVED
JUL 5 1995
ZADM
(410) 887-4500

DATE: 07/03/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JUL. 03, 1995.

Item No.: SEE BELOW Zoning Agenda:

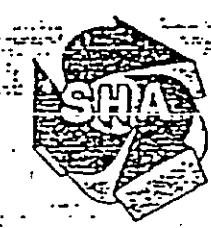
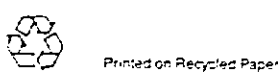
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS 468, 469, 473, 474, 475, 476 AND 477

REVIEWER: LT. ROBERT P. SAUERWALD,
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassol
Administrator

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 468 (WCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Bob Small
Ronald Burns, Chief
Engineering Access Permits
Division

BS/

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management



July 5, 1995

(410) 887-3353

John B. Gontrum, Esquire
Romadka, Gontrum, & McLaughlin, P.A.
814 Eastern Boulevard
Essex, MD 21221

RE: Preliminary Petition Review (Item #468)
Legal Owner: Chapel Homes, Inc.
2418 Autumn View Way
9th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Joseph C. Merrey
Planner I

JCM:scj

Enclosure (receipt)

c: Zoning Commissioner



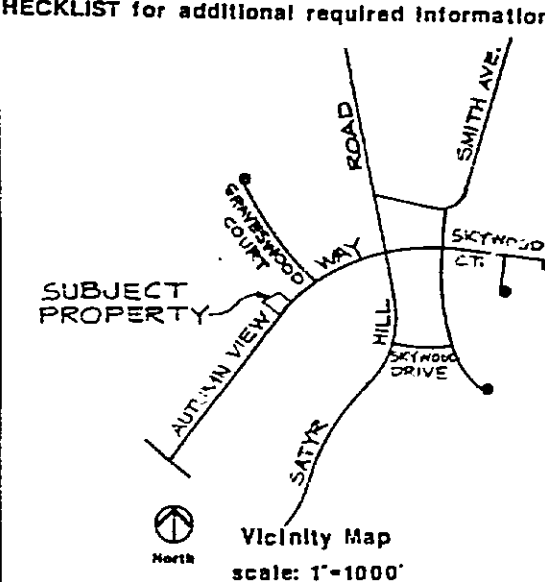
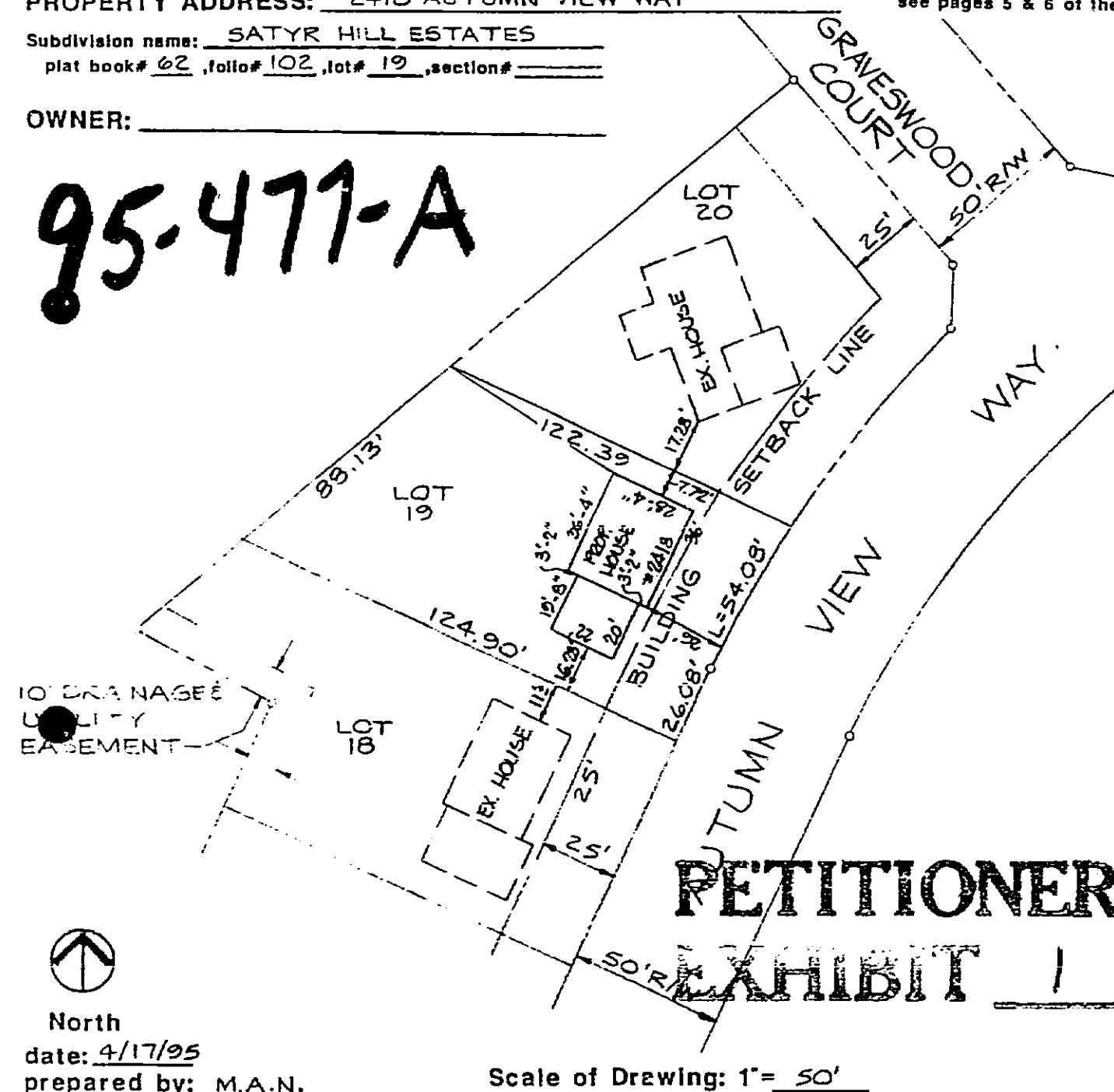
Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 2418 AUTUMN VIEW WAY

Subdivision name: SATYR HILL ESTATES
plat book # 62, folio 102, lot # 12, section #

OWNER:

95-477-A



LOCATION INFORMATION

Councilmanic District: 6
Election District: 9
1"-200' scale map: NE 11 D
Zoning: DR 1
Lot size: 0.25 AC ± 10890 square feet
Chesapeake Bay Critical Area: ☒
Prior Zoning Hearings:

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE #:
468

RE: PETITION FOR VARIANCE
2418 Autumn View Way, NW/SE Autumn View Wy,
125' SW of Cranes Wood Court, 9th
Election District, 6th Councilmanic
Chapel Homes, Inc.
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-477-A

ENTRY OF APPEARANCE

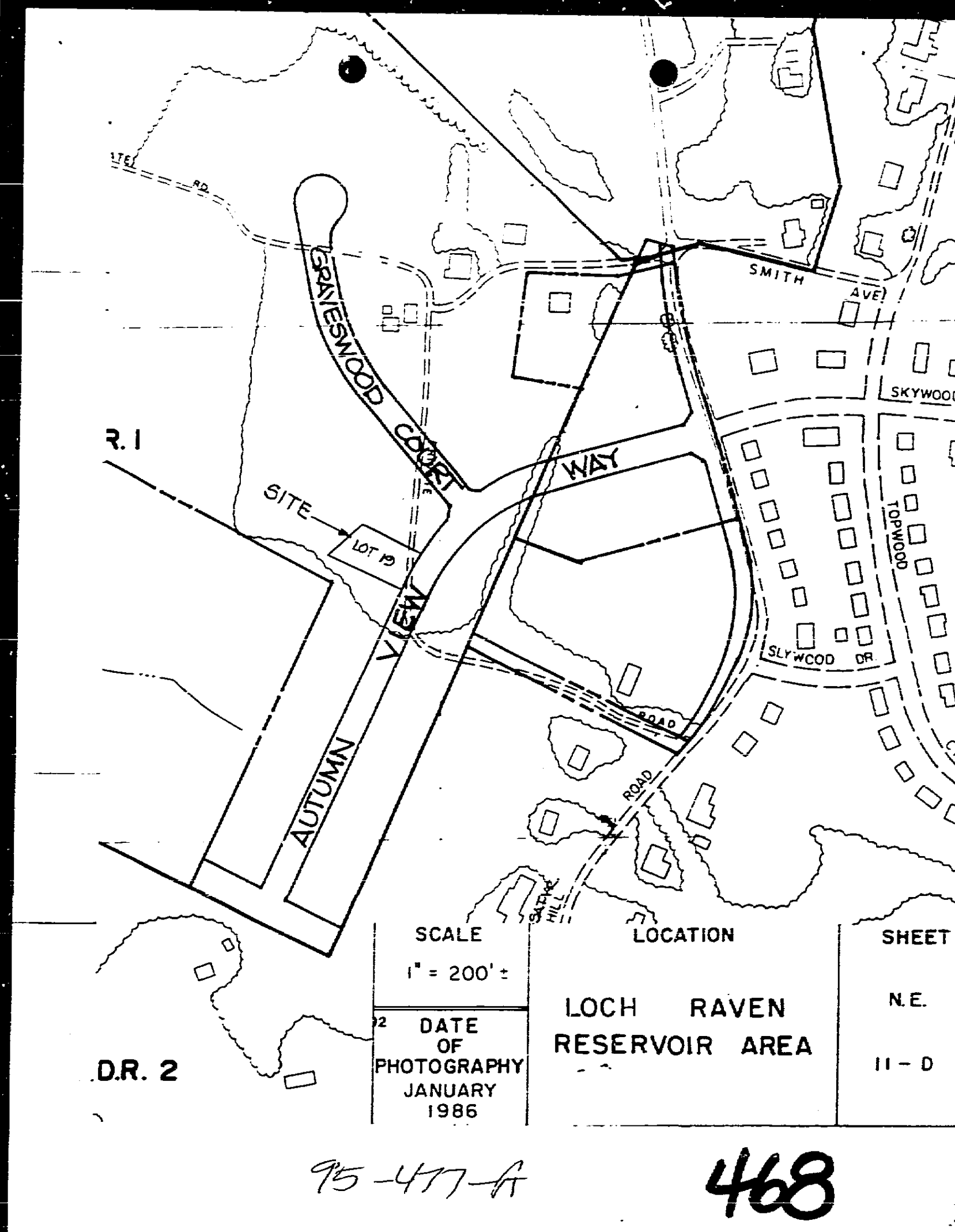
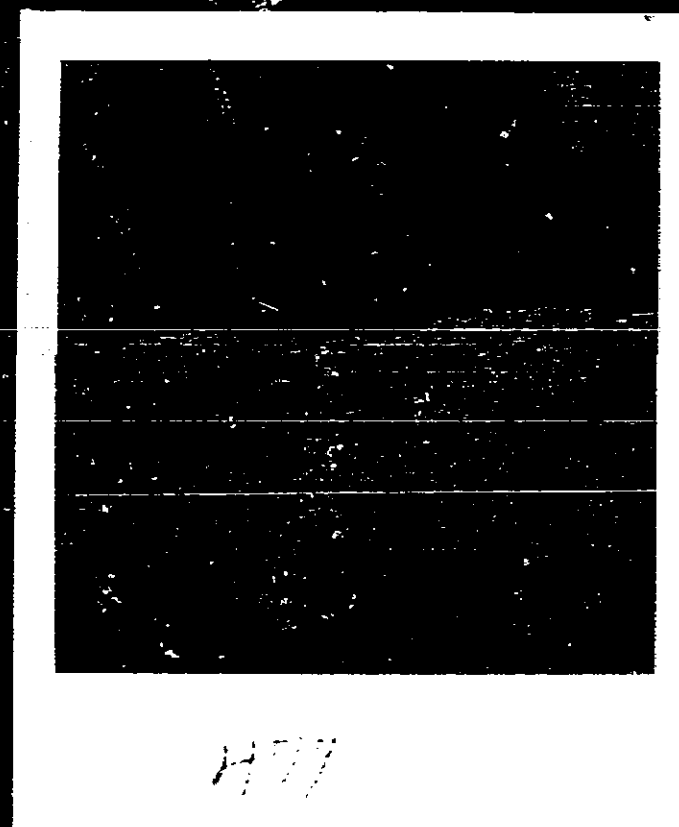
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
LOCKE RAVEN
RESERVOIR AREA

SHEET
N.E.
11 - D

95-477-A

468



SCALE LOCATION SHEET

1" = 200' 95-477-A

DATE OF PHOTOGRAPHY JANUARY 1986
LOCKE RAVEN RESERVOIR AREA
N.E. 11 - D

468